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Remarks/Arguments

Claims 1 and 3-26 are pending in the present application. Claims 1 and 3 have been amended while claims 16-26 are newly added. Applicants have introduced these amendments to clarify the invention to the Examiner and to more clearly distinguish the invention over the cited references. No new matter has been added to the prosecution of this application. For at least the reasons stated below, Applicants assert that all claims are in condition for allowance.

I. The Present Invention

The present invention provides a system and method to produce a national retail traffic index for users. Generally speaking, this invention collects both traffic data and non-traffic data, and utilizes these two types of data to produce a set of national retail traffic index data which can be accessed via a data mart. As set out in the specification, these indexes are developed based on mathematical algorithms to produce usable information for a user. See, p.15, lines 17-25. The claims set forth this concept in a manner to clearly identify the invention. Reviewing the amended claims, it can be seen that they include, *inter alia*:

- (1) a traffic database for storing the pedestrian traffic data;
- (2) at least one database for storing non-traffic related data;
- (3) a view creator for generating national retail traffic index data by processing the data stored in these databases; and
- (4) a national retail traffic index data mart for storing the national retail traffic index data accessible by users in an effort to determine a user relevant national traffic index.

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II. The § 103 Rejections

Claims 1, 3-5, 7-9 and 12-14 have been rejected under 35 U.S.C. § 103(b) as being unpatentable over Dedrick (U.S. Patent Number 5,696,965) in view of Fox et al. (U.S. Patent No. 5,832,756) and in further view of Montero (U.S. Patent No. 6,133,912). The Examiner asserts that Dedrick teaches "a plurality of traffic monitors at a plurality of provider sites", "a server connected to said traffic monitors to receive traffic data from said traffic monitors", "generating national retail traffic index data by processing data stored in the at least one database form [sic] storing non-traffic related data", "storing and a database receiving said indexes from said processors and storing indexes", and "a data communications connection through which users may access said database". See, Office Action, p.3 (citing column 2 lines 56-62, column 3 lines 49-58, column 4 lines 5-67, column 10 lines 52-67, figures 2 through 4, and in the Abstract). Further, the Examiner indicates that Dedrick fails to explicitly disclose a traffic database, a non-traffic database, a view creator for generating national retail traffic index data, and a national retail traffic index data mart. However, the Examiner asserts that Fox discloses a traffic database, and Montero discloses a view creator. Thus, the Examiner concludes that it would have been obvious for one skilled in the art to develop the invention of these subject claims.

Dedrick does not teach several elements.

As an initial point, Applicants respectfully disagree with the Examiner's characterization of Dedrick and assert that it does not teach or suggest all of the limitations outlined above. Applicants agree that Dedrick does not teach or suggest the use of pedestrian traffic data, or non-traffic related data (such as demographic data, corporate profile data, sales data, etc., which are specifically claimed in certain dependent claims) to generate national retail traffic index data, which is then stored on a data mart. These shortcomings, however, are more significant than suggested by the Examiner. Dedrick is best characterized as a client activity monitor, which keeps track of computer user activity

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and characteristics. As a result of this activity, the system of Dedrick is capable of customizing information for a user when accessed via the computer system. Other than the general monitoring of activity, Dedrick has very little in common with the present invention. Other than well understood computer system concepts, Dedrick really provides no teaching relevant to the pedestrian traffic monitoring and index data creation concepts of the present invention. Further, there is no incentive for one skilled in the art to combine Dedrick with other references related to traffic monitoring concepts, to generate a system claimed in the present application.

Fox Does not Provide Sufficient Teaching

The Examiner has further cited the Fox reference as teaching a traffic monitoring system. While Fox does generally relate to traffic monitoring, its concepts and general focuses are simply much different than that of the present invention. More specifically, Fox is specifically directed towards the correlation of weather data with business forecasting activities. Some of this business forecasting involves the monitoring of traffic along with consumer activity (i.e., purchases). Fox, however, does not involve the monitoring of traffic data for specific purposes for creating index data which is available to users via a data mart.

Montero Only Deal with General Computer Concepts

Lastly, Montero was cited as disclosing a view creator. Examining Montero in more detail reveals that the cited passages relate simply to the storage of profile databases, and the communication of this information via a network. While generally applicable to the computer system utilized by the present invention, the concept of Montero is not related to traffic data or the generation of index data, as outlined and claimed in the present application. As such, Montero provides general background knowledge, however, does not add specific teaching relevant to the present invention.

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Rejections Under 5 103 are Unsupported

Once again the concept of the present invention relates to the generation and storage of both a traffic database and a non-traffic database both of which are utilized to generate national retail traffic index data. This index data is then available at a data mart, which is accessible by users. It is significant to point out that this index data is not simply a "catalog" or "table of contents" as may often be considered when the term "index" is utilized. Rather, the index data of the present invention provides a score or rating. As stated, the index is a comprehensive overview of nation wide retail traffic information. See specification, p.4, lines 23-36. This concept is not taught or suggested by any of the references.

Further, given the diverse nature of the various references, it is pure speculation to suggest that these references would be combined to render obvious the present invention. As discussed above, each cited reference is primarily related to a very different focus. As such, an inventor would not be inclined to consult these various references when developing the presently claimed invention. Further, there is nothing in the various references to suggest their combination.


In addition to the details discussed above, the application includes several dependent claims containing details not addressed by the Examiner. Specifically, the databases for non-traffic related data are: a demographics database for storing census demographics, a profiles database for storing site profiles (associated to a set of provider sites) and corporate profiles (associated to a set of corporations), and a customer database for storing sales data. When combined with the details of the independent claims, these details further differentiate the present invention from the prior art.

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III. Summary

Applicants submit that all pending claims are allowable over the art of record and respectfully requests that a Notice of Allowance be issued in this case. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at 612-607-7387. A transmittal form is submitted along with this amendment to cover costs for additional claims. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees including fees for any extension of time, to Deposit Account No. 50-1901 (Docket 14862-323).

Respectfully submitted,



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